HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 6849 (S/S) 2001
(Old no. 33546 of 1992)

Sri Virendra Singh S/o Sri Devi Singh,
Lab Assistant,
Basu Mal Dayanand Uchchattar Madhyamik Vidyalay,
Bhagwanpur, Haridwar ---Petitioner

Vs

1. Director of Inspector of Schools, Haridwar,
2. Committee of Management,
   B.D. Inter College, Bhagwanpur Haridwar,
   Through its Manager,
3. Principal, B.D. Inter College, Bhagwanpur, Haridwar,
4. Vikram Singh S/o Sri Shyam Singh,
   at present Clerk, B.D. Inter College,
   Bhagwanpur, Haridwar. ---Respondents.

Sri Manoj Tewari, learned counsel Assisted by Sri Alok Mehra, Adv. for the petitioner.
And learned Standing Counsel for the State.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Manoj Tewari, learned counsel assisted by Sri Alok Mehra, Adv. for the petitioner and learned Standing Counsel for the State.

By means of this writ petition, the petitioner has prayed to issue a writ in the nature of mandamus commanding the respondent no.1 i.e. the District Inspector of Schools, Haridwar not to interfere in the working of the petitioner as Clerk in B.D. Inter College, Bhagwanpur, Haridwar and further he prayed to issue a writ in the nature of certiorari quashing the order dated 25.08.1992 by which the respondent no. 4 who was working as Waterman was promoted to the post of Clerk in the Institution.

Submission of the petitioner is that he was appointed in the Institution on 01.08.1972 as Lab Assistant whereas, the respondent no. 4 was appointed in the Institution on 01.10.1993 as Waterman, as such, being senior to the respondent no. 4, the petitioner was entitled to be promoted to the post of Clerk when

the same fell vacant on account of retirement of one Sri Mohd. Yakub Khan in the year 1993.

The petitioner has submitted that as per the seniority list supplied by the Department on 01.01.1986, the petitioner has been placed at Sl. no. 5 while the respondent no. 4 was placed at Sl. no. 7, thus being the senior most, the petitioner is entitled to be promoted to the post of Clerk, however the respondent's Institution has promoted the respondent no. 4 and the District Inspector of Schools has illegally accorded approval to that promotion.

During the course of arguments, learned counsel for the petitioner has submitted that the respondent no. 4 is going to be retired on 30th May 2005 and the post of Clerk in the Institution will fall vacant, therefore, in the instant circumstances the respondents may be directed to promote the petitioner on the post of Clerk whenever it fall vacant. Counsel for the petitioner has further contended that there is no other person senior to him and eligible to be appointed as Clerk in the Institution. The petitioner is fully qualified and eligible to be appointed on the said post.

For the reasons recorded above it will be in the interest of justice to direct the respondent nos. 1 & 2 to consider the case of the petitioner sympathetically.

Accordingly, I direct the respondent nos. 1 & 2 that, in case, the petitioner is eligible to be appointed on the post of Clerk, which is likely to fall vacant in the Institution on 1st June, 2005 on retirement of respondent no.4, his case shall be considered for appointment as clerk in the Institution preferably within 15 days from the date, the respondent no. 4 retires from his services.

With these directions, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

May 19, 2005:
NCM: